and probable consequences of the breach of contract. When such is the case damages for mental suffering are allowed. *Beasley v. Western Union Tel. Co.*, 39 Fed. Rep., 181; *Hale v. Bonner*, 82 Tex., 33. But they are not allowed when the mental suffering is a remote consequence. *Illinois Cent. R. Co. v. Siddons*, 53 Ill. App., 607. Damages for mental suffering, in actions for breach of contract, can never be recovered by one who is not a party to the contract. *Wells v. Fuller*, 4 Tex. Civ. App., 213.

DIVORCE—DISMISSAL OF BILL—GUILT OF BOTH PARTIES.—WILSON V. WILSON, 132 N. W., 401 (NEB.).—*Held*, that upon an application for a divorce, where both parties are found guilty of any of the enumerated offenses for which a divorce may be granted, the court should dismiss the bill. Root, J., *dissenting in part.*

The doctrine of recrimination is but an application of the maxim of equity that he who comes into equity must come with clean hands. *Hoff v. Hoff*, 48 Mich., 281; *Mattox v. Mattox*, 2 Ohio, 233. At common law adultery was the only offense pleaded as recrimination. *Cocksedge v. Cocksedge*, 1 Rob. Eccl., 90. If the complainant is guilty of the same offense as the defendant, there can never be a divorce. *Duberstein v. Duberstein*, 171 Ill., 133; *Derby v. Derby*, 21 N. J. E., 36. And by the weight of authority the offense pleaded in recrimination need not be of the same nature as the defendant's offense, provided, of course, that it is one which of itself would be a cause for divorce. *Cassidy v. Cassidy*, 63 Cal., 352; *Cumming v. Cumming*, 135 Mass., 386. And no more evidence is requisite to establish a recriminatory charge made in an answer than would be needful to establish a lige charge in an original libel for divorce. *Schouler "Husband and Wife,"* pg. 565; *Pollock v. Pollock*, 71 N. Y., 137. However there are a few States which demand that the two offenses must be of the same character. *Bast v. Bast*, 82 Ill., 584; *Dillon v. Dillon*, 32 La. Ann., 643. Some States allow recrimination charges not to prevent the divorce but to reduce the alimony. *Buerfening v. Buerfening*, 23 Minn., 563

EASEMENTS—PRIVATE WAYS—APPURTENANT TO LAND.—HAMMONDS ET AL. V. EADS ET AL., 142 S. W., 379 (KY.).—*Held*, that under a deed giving the grantee the right to pass over the remaining lands of the grantor to reach the lands conveyed when an adjoining stream should be "past fording," the right of way was not personal to the grantee, but appurtenant to the land.

An easement is never presumed to be in gross when it can fairly be construed to be appurtenant to some estate. *Dennis v. Wilson*, 107 Mass., 591; *Oswald v. Wolf*, 126 Ill., 542; *Sanxay v. Hunger*, 42 Ind., 44. Whether the right of way, in the principal case, is appurtenant to land or in gross should be determined by the nature of the right and the intention of the parties creating it. *Valentine v. Schreiber*, 3 N. Y. App. Div., 235; *French v. Williams*, 82 Va., 462. A granted right of way is not in gross when

there is anything in the deed or the situation of the property which indicates that it was intended to be appurtenant to the land granted. *Lathrop v. Elsner,* 93 Mich., 599; *Kuecken v. Valtz,* 110 Ill., 264. And it is a general rule that where an easement is manifestly intended for the benefit of the principal estate it will be held to be a permanent easement rather than a personal one, and this although no words of inheritance are used. *Chappel v. N. Y., etc., R. Co.,* 62 Conn., 195; *Hagerty v. Lee,* 54 N. J. L., 580. The fact that the right of way is to be used in connection with the occupancy of the grantee's land, and is useless for any other purpose, will overcome any presumption that it was to be intended to be in gross that might otherwise arise from the absence of the words "heirs and assignees." *Lidgerding v. Zignego,* 77 Minn., 421.

GRAND JURY—REFUSAL OF WITNESS TO ANSWER—PROMISE OF IMMUNITY.—EX PARTE NAPOLEON, 144 S. W., 269 (TEX.).—*Held,* a witness before a grand jury may, after having been promised immunity in prosecution, be compelled to answer incriminating questions. Davidson, C. J., *dissenting in part.*

Since the case of *Counselman v. Hitchcock,* 142 U. S., 547, it has been admitted law that the Fifth Amendment to the United States Constitution protects a person from any incriminating self-disclosure in any proceeding, civil or criminal. But the authorities are not in entire accord in the application of this rule to cases where immunity is promised. Numerous cases hold that a witness will be compelled to answer if granted complete immunity. *Re Van Tine,* 12 How. Pr., 507; *Kendrick v. Com.,* 78 Va., 492; *R. V. Charlesworth,* 2 Fost. & F., 326. Some cases hold that a witness will be required to answer if secured against prosecution for the offenses he discloses. *Brown v. Walker,* 161 U. S., 591; *Ex parte Cohen,* 104 Cal., 524. But the weight of authority seems to be that a witness should not be compelled to answer if the only security is that his testimony will not be used against him, since it may lead to the discovery of new evidence on which the witness might be convicted. *Counselman v. Hitchcock, supra; Re Walsh,* 104 Fed., 518; *People ex rel Lewisohn v. O'Brien,* 176 N. Y., 253; *Chappell v. Chappell,* 116 N. Y. App. Div., 573. *Contra, Mackel v. Rochester,* 42 C. C. A., 427; *State v. Quarles,* 13 Ark., 307. In *United States v. James,* 60 Fed., 257, it was held that a person cannot be deprived of the constitutional guarantee even if immunity be stipulated in a United States statute, but this holding was subsequently overthrown in *Brown v. Walker, supra;* the latter case being followed in *Commerce Commission v. Baird,* 194 U. S., 25.

HOMICIDE—THREATS—EVIDENCE.—OLIVE V. STATE, 57 So., 66 (ALA.).—*Held,* that threats to kill someone not definitely designated, when made shortly before the commission of the offense to which they may be construed to refer, are admissible, in connection with other explanatory circumstances and on proof of the *corpus delicti.*